IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 21823 of 2004

Between:

Bhasker Raj Saxena, S/o. Narahar Raj Saxena,
R/o. H.No.3-6-69/B/4, Avanti Nagar, Himayatnagar, Hyderabad.

... PETITIONER

AND

1 The Commissioner of Endowments, Tilak Road, Abids,

Hyderabd.
2 The Deputy Commissioner of Endowments, Tilak Road,

Abids, Hyderabad.
3 Sudershan Ausekar, S/o. Gajanand Rao,
R/o. 23-5-430, Shahalibanda, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ or order or direction more particularly one in the nature of Writ of Mandamus, declare the action of the 1st respondent in passing the impugned order dt. 10.09.2004 vide Rc.No.BC1/39860/2004, thereby transferring O.A.No.11/1998 from the file of Deputy Commissioner, Endowments, Hyd to Dy. Commissioner Endowments, Warangal, without giving an opportunity to the petitioner and without assigning any reasons, as illegal, arbitrary and violative of principles of natural justice and consequently set-aside the said impugned order dt. 10.09.2004 vide RC.No.BC1/39860/2004 passed by the 1st respondent to pass any other order or orders as this Hon’ble Court in the interests of justice.

Counsel for the Petitioner: MR.P.SHIV KUMAR

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

The Court at the admission stage made the following:

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ORDER:

This writ petition is filed challenging the order, dated 10.09.2004, passed by the Commissioner of Endowments, the first respondent, transferring O.A.No.11 of 1998, on the file of the Deputy Commissioner of Endowments, Hyderabad, to the Deputy Commissioner of Endowments, Warangal.

2. The grievance of the petitioner is that no notice was issued to him, before ordering such transfer and that the third respondent has insisted on this transfer, only with a view to protract the proceedings, which are pending since last several years.

3. Learned counsel for the petitioner submits that before transferring the proceedings from one authority to another, the first respondent ought to have issued notice to the petitioner. He submits that though number of directions were issued by this Court also, for disposal of the proceedings, the O.A. has not been disposed of, so far, and the transfer would adversely affect the interests of the petitioner.

4. Learned Government pleader had produced the record before this Court and submits that the transfer was effected, only with a view to ensure proper disposal of the O.A.

5. Section 132 of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act') empowers the first respondent to transfer proceedings from one authority to another. It is similar to Section 24 of C.P.C. However, before proceedings are transferred from one authority to another, the parties to such proceedings, are required to be put on notice. Unless proper grounds exist, and the views of both the parties are taken into account, the proceedings cannot be transferred from one authority to another. The impugned order does not disclose the reasons that warranted such a transfer.

6. Hence the writ petition is allowed and the impugned order is set aside. It is, however, left open to the first respondent to issue notice to the petitioner, if he intends to transfer the O.A once again. The Deputy Commissioner of Endowments, Hyderabad is directed to dispose of the O.A itself, within two months from today, if it is not transferred to any other authority.

There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Sd/-

ASSISTANT REGISTRAR

Dated: 30th November, 2004

Note: - Issue C.C in three days.

(B/o)

RAR

To

1 The Commissioner of Endowments, Tilak Road, Abids,

Hyderabd.

2 The Deputy Commissioner of Endowments, Tilak Road,

Abids, Hyderabad.

3 2 CCs to G.P for Endowments, High Court Buildings,

Hyd. (OUT)

4 2 CD copies.